

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

OP.No. 2432 of 1998(M)

PETITIONER:

**K.M. GEORGE, S/O. MATHAI, AGED 47 YEARS,
RESIDING AT KAKKOOTTILE VEEDU, CHENKALA (VIA),
KASARAGODU.**

BY ADV. SRI.A.X.VARGHESE.

RESPONDENTS:

- 1. THE CHAIRMAN, RUBBER RESEARCH INSTITUTE OF INDIA,
RUBBER BOARD, PUTHUPALLY, KOTAYAM - 9.**
- 2. THE DIRECTOR, THE RUBBER RESEARCH INSTITUTE OF INDIA,
RUBBER BOARD, KOTTAYAM - 9.**
- 3. DEPUTY SECRETARY, THE RUBBER RESEARCH INSTITUTE OF INDIA,
RUBBER BOARD, KOTTAYAM.**
- 4. PRODUCTION COMMISSIONER, THE RUBBER BOARD, KOTTAYAM.**
- 5. THE SUPERINTENDENT, THE CENTRAL EXPERIMENT STATION,
CHETHAKKAL.**

BY ADV. SRI.JOSEPH MARKOSE.

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

ORDER ON C.M.P. NO. 4280/1998 IN O.P. NO. 2432/1998

DISMISSED

27/06/2007.

SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE COUNSEL APPEARING FOR THE MANAGEMENT SUBMITTED THAT SETTLEMENT PROPOSAL BEFORE THE LABOUR COURT ON 23/01/1989 IN I.D. NO. 173/88.

EXT.P.2: COPY OF THE MEMO DTD. 11/01/1989 ISSUED BY THE DIRECTOR OF RESEARCH, RUBBER RESEARCH INSTITUTE OF INDIA NO. 6/1/88/RES. TO THE PETITIONER.

EXT.P.3: COPY OF THE NOTICE DTD. 03/07/1995 ISSUED BY THE DISTRICT MEDICAL OFFICER TO THE PETITIONER.

EXT.P.4: COPY OF THE REPRESENTATION DTD. 09/07/1995 SENT BY THE PETITIONER TO THE DISTRICT MEDICAL OFFICER, KASARGOD.

EXT.P.5: COPY OF THE MEMO DTD. 07/07/1997 ISSUED BY THE R.2.

EXT.P.6: COPY OF THE LETTER DTD. 22/07/1997 SENT BY THE PETITIONER TO THE R.2.

EXT.P.7: COPY OF THE MEMO DTD. 22/07/1997 ISSUED BY THE RESPONDENTS TO THE PETITIONER.

EXT.P.8: COPY OF THE CERTIFICATE DTD. 18/02/1994 ISSUED BY THE DEVELOPMENT OFFICER TO THE R.2.

EXT.P.8.A: COPY OF THE ANOTHER CERTIFICATE DTD. 05/01/1994 ISSUED BY THE DEVELOPMENT OFFICER TO THE PETITIONER REGARDING HIS CHARACTER AND CONDUCT.

EXT.P.8.B: COPY OF THE CERTIFICATE DTD. 20/06/1990 ISSUED BY THE ASST. SECRETARY OF THE RESPONDENT BOARD TO THE SAME ASPECT.

EXT.P.9: COPY OF THE MEMO DTD. 04/09/1997 ISSUED BY THE RESPONDENT TO THE PETITIONER.

EXT.P.10: COPY OF THE REPRESENTATION DTD. 26/06/90.

EXT.P.11: COPY OF THE PROPOSAL DTD. 29/06/90 ALONG WITH A STATEMENT OF THE CHAIRMAN.

O.P. NO. 2432/1998:

EXT.P.12: COPY OF THE JUDGMENT DTD. 07/08/1995 IN C.C. NO. 770/90 OF THE JUDICIAL MAGISTRATE OF THE 1ST CLASS-I, KOTTAYAM.

EXT.P.13: COPY OF THE JUDGMENT DTD. 13/08/2003 IN S.C. NO. 99/99 OF THE ADDL. DISTRICT & SESSIONS JUDGE, FAST TRACK COURT, (ADHC) KOTTAYAM.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

THOTTATHIL B. RADHAKRISHNAN, J.

= = = = =

O.P.No.2432 of 1998-M

= = = = =

Dated this the 27th day of June, 2007.

JUDGMENT

The petitioner was a workman of the first respondent. Some time in 1991, he faced certain proceedings on counts of indiscipline. That ended up in the parties reconciling between themselves while proceedings were pending before the Industrial Courts. He was re-employed on daily wages awaiting regular recruitment. He did not, however, pass through the bench mark to be brought into regular service. Later, some time in 1997, he was alleged to have entered the cabin of the Chairman and Managing Director allegedly with certain explosive materials in a bag. This led to a proceedings before the Court of Session in which the petitioner stood charged for certain offences punishable under the Indian Penal Code. After trial, the Court of Session came to the conclusion that the case against the petitioner is not proved and therefore, he is not liable to be convicted.

2. On the basis of the aforesaid acquittal order, the learned counsel for the petitioner canvassed that if the management was aggrieved by the said order of acquittal, they would have appealed against the same and that the said order having been rendered on the same set of facts, the order of acquittal could be one to inure to the benefit of the petitioner to let him rejoin by setting aside the dismissal order. I am not impressed. Firstly, the finding of the criminal Court is not one on the basis of which an order of reinstatement in service could be made. The question whether the decision of the management to do away with an enquiry on the facts and circumstances of the case is permissible or whether that could be treated as a case where procedure relating to enquiry has been irregularly held, are matters that can gain attention of the Industrial Courts only and not of this Court. More so because, disputed questions of facts would arise in adjudicating such an issue. Not only that, even if an order of reinstatement is to be made, the different attendant questions, including the question of backwages, cannot be decided without the parties being let to bring on record appropriate materials, as may be relevant for adjudication

and decision on such issues.

For the foregoing reasons, though this is a writ petition of the year 1998, I am not inclined to exercise the writ jurisdiction in preference to an available remedy under the Industrial Disputes Act, 1947. The writ petition is accordingly dismissed without prejudice to the right of the petitioner to have recourse to any such remedies.

Sd/-
THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

OP2432/1998

-: 4 :-

THOTTATHIL B. RADHAKRISHNAN, J.

= = = = =

O.P.No. 2432 of 1998-M

= = = = =

JUDGMENT

Dated: 27th June, 2007.